

**UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA
PHILADELPHIA DIVISION**

In re: David A Jerri, Debtor. U.S. BANK TRUST NATIONAL ASSOCIATION, NOT IN ITS INDIVIDUAL CAPACITY BUT SOLELY AS OWNER TRUSTEE FOR RCF 2 ACQUISITION TRUST, Movant, v. David A Jerri, Debtor/Respondent, Howard Owens Bobby A. Ownes Co-Debtors/Respondent Kenneth E. West, Esquire, Trustee/Respondent.	Bankruptcy No. 24-11181-amc Chapter 13 Hearing Date: November 5, 2024 Hearing Time: 11:00 A.M. Location: Robert N.C. Nix Sr. Federal Courthouse 900 Market Street, Suite 204 Philadelphia, PA 19107
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**MOTION OF U.S. BANK TRUST NATIONAL ASSOCIATION, NOT IN ITS
INDIVIDUAL CAPACITY BUT SOLELY AS OWNER TRUSTEE FOR RCF 2
ACQUISITION TRUST FOR RELIEF FROM THE AUTOMATIC STAY AND CO-
DEBTOR STAY ON 400 LOUISE AVENUE, CROYDON, PA 19021**

Movant, U.S. BANK TRUST NATIONAL ASSOCIATION, NOT IN ITS INDIVIDUAL CAPACITY BUT SOLELY AS OWNER TRUSTEE FOR RCF 2 ACQUISITION TRUST, by and through the undersigned counsel, hereby moves this Court, pursuant to 11 U.S.C. § 362(d) and 11 U.S.C. § 1301,, for a modification of the automatic stay provisions for cause, and, in support thereof, states the following:

1. Debtor(s), David A. Jerri, filed a voluntary petition pursuant to Chapter 13 of the United

States Bankruptcy Code on April 8, 2024.

2. Jurisdiction of this cause is granted to the Bankruptcy Court pursuant to 28 U.S.C. § 1334, 11 U.S.C. § 362(d), Fed. R. Bankr. P. 4001(a), and all other applicable rules and statutes affecting the jurisdiction of the Bankruptcy Courts generally.
3. On November 30, 2004, Howard Owens executed and delivered a Promissory Note (“Note”) and Howard Owens and Bobby A. Owens executed a Mortgage (“Mortgage”) securing payment of the Note in the amount of \$180,800.00 to ABN AMRO Mortgage Group, Inc., A Delaware Corporation. A true and correct copy of the Note is attached hereto as Exhibit “A.”
4. The Mortgage was recorded on December 28, 2004 in Book 4240 at Page 428, Instrument Number 2004159381 of the Public Records of Bucks County, Pennsylvania. A true and correct copy of the Mortgage is attached hereto as Exhibit “B.”
5. The Mortgage was secured as a lien against the Property located at 400 Louise Avenue, Croydon, PA 19021, (“the Property”).
6. The loan was lastly assigned to U.S. BANK TRUST NATIONAL ASSOCIATION, NOT IN ITS INDIVIDUAL CAPACITY BUT SOLELY AS OWNER TRUSTEE FOR RCF 2 ACQUISITION TRUST and same was recorded with the Bucks County Recorder of Deeds on September 19, 2024 as Instrument Number 2024038469. A true and correct copy of the Assignment of Mortgage is attached hereto as Exhibit “C.”
7. Co-Debtor(s), Howard Owens and Bobby A Owens, are liable on and/or has secured the aforementioned debt with the Debtor(s).
8. Based upon the Debtor(s)’ First Amended Chapter 13 Plan (Docket No. 23), the Debtor intends to cure Movant's pre-petition arrearages within the Chapter 13 Plan and is

responsible for maintaining post-petition payments directly to Movant. A true and correct copy of the First Amended Chapter 13 Plan is attached hereto as Exhibit “D.”

9. Upon review of internal records, Debtors has failed to make the monthly post-petition payments of principal, interest, and escrow due to Movant in the amount of \$1,682.95 which came due on May 1, 2024 through September 1, 2024, respectively. See Exhibit “E.”
10. Thus, Debtor'(s) post-petition arrearage totaled the sum of \$8,414.75 through September 27, 2024.
11. The current unpaid principal balance due under the loan documents is approximately \$123,715.49. Movant’s total claim amount, itemized below, is approximately \$204,892.82. See Exhibit “F.”

Principal Balance	\$123,715.49
Interest	\$33,110.72
Escrow/ Impound for this period	\$27,307.11
Total Fees	\$70.75
Accumulated Late Charges	\$516.79
Accumulated NSF Charges	\$300.00
Recoverable Balance	\$19,871.96
Total to Payoff	\$204,892.82

12. According to the Debtor(s)’ schedules, the value of the property is \$348,840.00. A true and accurate copy of the Debtor(s)’ Schedule D is attached hereto as Exhibit “E.”
13. Movant is the holder of the note (“noteholder”), and is either the original mortgagee, beneficiary or assignee of the security instrument for the referenced loan. Noteholder directly or through an agent has possession of the promissory note and the promissory note is either made payable to noteholder or has been duly endorsed.
14. Under Section 362(d)(1) of the Code, the Court shall grant relief from the automatic stay and Co-Debtor stay for “cause” which includes a lack of adequate protection of an interest

in property. Sufficient “cause” for relief from the stay under Section 362(d)(1) is established where a debtor has failed to make installment payments or payments due under a court-approved plan, on a secured debt, or where the Debtor(s) have no assets or equity in the Mortgaged Property.

15. As set forth herein, Debtor has defaulted on the secured obligation having failed to make all monthly post-petition installment payments due to Movant.

16. As a result, cause exists pursuant to 11 U.S.C. § 362(d) of the Code for this Honorable Court to grant relief from the automatic stay to allow Movant, its successor and/or assignees to pursue its state court remedies, including the filing of a foreclosure action.

17. Additionally, once the stay is terminated, the Debtor(s) will have minimal motivation to insure, preserve, or protect the collateral; therefore, Movant requests that the Court waive the 14-day stay period imposed by Fed.R.Bankr.P. 4001(a)(3).

WHEREFORE, Movant, prays this Honorable Court enter an order modifying the automatic stay under 11 U.S.C. § 362(d) to permit U.S. BANK TRUST NATIONAL ASSOCIATION, NOT IN ITS INDIVIDUAL CAPACITY BUT SOLELY AS OWNER TRUSTEE FOR RCF 2 ACQUISITION TRUST to take any and all steps necessary to exercise any and all rights it may have in the collateral described herein, to gain possession of said collateral, to seek recovery of its reasonable attorneys’ fees and costs incurred in this proceeding, to waive the 14-day stay imposed by Fed.R.Bankr.P. 4001(a)(3), and for any such further relief as this Honorable Court deems just and appropriate.

Date: 10/7/2024

**Robertson, Anschutz, Schneid, Crane
& Partners, PLLC**

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